

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 141 - SB 736

February 28, 2021

SUMMARY OF BILL: Creates a Sales and Use tax exemption and a Franchise and Excise (F&E) tax credit for film productions approved by the Commissioners of the Department of Revenue (DOR) and of the Department of Economic and Community Development (ECD) as being in the best interest of the state. Authorizes applicants to file a combined F&E tax return with one or more of the applicant's affiliates or affiliated group members, for the purpose of fully utilizing the F&E tax credit provided in this proposed legislation.

ESTIMATED FISCAL IMPACT:

Foregone State Revenue - \$1,349,400/FY21-22
\$1,349,400/FY22-23
\$4,229,400/FY23-24
\$7,109,400/FY24-25
\$9,989,400/FY25-26
\$12,869,400/FY26-27
\$15,749,400/FY27-28 and Subsequent Years

Foregone Local Revenue - \$550,600/FY21-22 and Subsequent Years

Other Fiscal Impact – Allowing these applicants to file their F&E taxes jointly could increase the amount of F&E tax credits used by the film production companies, their affiliates, or by other entities that would be allowed to file jointly with their affiliates as a result of this proposed legislation. The exact amount and timing of such an impact is considered undeterminable at this time.

Assumptions:

Sales and Use Tax Exemption:

- Based on information from DOR and ECD the total average annual expenditures eligible for the sales and use tax exemption created by this proposed legislation is estimated to be approximately \$20,000,000, for an estimated two productions per year. Such purchases are estimated to begin prior to actual production.
- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent; the effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent.
- The estimated recurring foregone state revenue beginning in FY21-22 will be \$1,349,362 $[(\$20,000,000 \times 7.0\%) - (\$20,000,000 \times 7.0\% \times 3.617\%)]$, and the foregone

local revenue will be \$550,638 $[(\$20,000,000 \times 2.5\%) + (\$20,000,000 \times 7.0\% \times 3.617\%)]$.

F&E Tax Credit:

- According to DOR, the estimated amount of credit to be earned per production is \$7,200,000, with 20 percent, or \$1,440,000 $(\$7,200,000 \times 20\%)$ able to be used per year.
- Based on information from ECD it is estimated that the first of these tax credits would not be able to be used until FY23-24.
- Beginning in FY23-24, the foregone tax revenue from the F&E credit is estimated to increase by two new productions each year until FY27-28 when the last remaining credits of the first two productions will be offset by the two new productions.
- The foregone state revenue is as follows: \$2,880,000 $(\$1,440,000 \times 2)$ in FY23-24, \$5,760,000 $(\$1,440,000 \times 4)$ in FY24-25, \$8,640,000 $(\$1,440,000 \times 6)$ in FY25-26, \$11,520,000 $(\$1,440,000 \times 8)$ in FY26-27, and \$14,400,000 $(\$1,440,000 \times 10)$ in FY27-28 and subsequent years.

Combined F&E tax return filings:

- Authorizing the combined filing for the applicant's affiliates or group member affiliates will not increase the amount of F&E tax credits awarded, but could impact how much of the tax credit is used each year. The extent to which these applicants or their affiliates increase the amount of credits used is unknown and is considered indeterminable at this time.
- Furthermore, should this cause DOR to offer combined filings for other entities is also unknown, but could result in an increase of F&E credits being used by non-film production entities and thus decrease state revenue or increase foregone state revenue by unknown amounts.

Totals:

- The total foregone state revenue will be \$1,349,362 in FY21-22 and FY22-23, \$4,229,362 $(\$1,349,362 + \$2,880,000)$ in FY23-24, \$7,109,362 $(\$1,349,362 + \$5,760,000)$ in FY24-25, \$9,989,362 $(\$1,349,362 + \$8,640,000)$ in FY25-26, \$12,869,362 $(\$1,349,362 + \$11,520,000)$ in FY26-27, and \$15,749,362 $(\$1,349,362 + \$14,400,000)$ in FY27-28 and subsequent years.
- The total foregone local revenue is \$550,638 in FY21-22 and subsequent years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Bojan Savic, Interim Executive Director

/aw